

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(93)

Kim Smith :  
Plaintiff :  
: :  
: Civil Action No. 1:01-0817  
v. :  
: (Judge Caldwell)  
: :  
James Mrgan, et al., : (Magistrate Judge Mannion)  
Defendants :  
: :  
: NOV - 5 2002

FILED  
SCRANTON

TEMPORARY RESTRAINING ORDER  
NUNC PRO TUNC

PER

DEPUTY CLERK

AND NOW, comes Kim Smith a lay person not lettered in legal matters and without the aid of counsel in this pro-se petition for temporary restraining order injunction, to stop the abuse and denial of health care by Dr. Brien and Wexford health in the treatment of Kim Smith health conditions and making false claims that a lump behind left knee is benign without taking a biopsy, and failing to treat arthritis in shoulder with bone spurs and arthritis in low back and claiming that these condition are recurrent and go away. And the are not avers the following;

After x-rays were taken at State Correctional Institution Smithfeild of Kim Smith right shoulder it was diagnosed that he had arthritis and bone spurs and no treatment was give or has been given to this condition since these x-rays were taken. Then after x-rays were taken at State Correctional Institutional Coal Township it was diagnosed that Kim Smith had no problem despite his repeated request of pain and lack of movement in right shoulder without feeling pain no treatment was given and the medication that Kim Smith was given does not address the pain, and is as if Kim Smith was not given any treatment at all for this condition.

After x-rays were taken and a ultra sound was taken of left knee which has a lump behind it Kim Smith was under the impression that he would see an Ortho. doctor and have

this lump address. On Feb. 19, 2002 a Dr Brein claimed that this lump was benign and when asking how he could state such without taking a biopsy of the lump his reply was to sue him if I did not like what I was being told, and that it was not the first time that he was sued for malpractice, and since Kim Smith has not been treated for this condition, to a level of standard that is to be expected by these health care professionals. After the taking of Kim Smith back brace by Dr Kort, based on false claim that their was nothing wrong when this back injury was and is well documented, and institutional staff has failed to address this condition, or return the back brace based on the false claim of Dr. Kort.

This institutional health care service has failed to return the C-Pap device, claiming that I refused such and base their opinion on report given by Dr. Long and M. Baker that Kim Smith while in RHU. at State Correctional Institution Smithfield but in the RHU this device could not be safely used and Kim Smith was not afforded a chance to use this device, moreover none of the cell in RHU in that institution had power to use such device and no arrangements were used or taken to provide power to any of the cell Kim Smith was in. And knowing that the failure to issue such a device puts Kim Smith at risk for injury and even death when the failure to use this device during sleep. Medical staff at State Correctional Institution Coal Township knew or should have known that the refusing to issue this device to Kim Smith put him at risk for serious illness and injury to his heart, lungs, liver, kidneys, brain and respiratory system and other health care injury. It was never investigated that for the 7 month while in RHU. was their power in cells and if the device could be safely used. None the less this medical staff should not refuse the care of this device based on the false report and record of DR. Long and M. Baker. Since then their report has deprived me of needed health care.

WHEREFORE Kim Smith prays that an investigation into the above listed claims is taken and Kim Smith health condition be address in a proper manner and he be given adequate health care for his condition.

RESPECTFULLY SUBMITTED

Kim Smith

IN THE UNITED STATES DISTRICT COURT  
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|                       |   |                            |
|-----------------------|---|----------------------------|
| Kim Smith             | : |                            |
| Plaintiff             | : | Civil Action No. 1:01-0817 |
|                       | : |                            |
|                       | : |                            |
| V.                    | : | (Judge Caldwell)           |
|                       | : |                            |
| James Morgan, et al., | : | (Magistrate Judge Mannion) |
| Defendants            | : |                            |

**VERIFICATION**

I Kim Smith pro-se petitioner in this case hereby verify that the information is true and correct to the best of my knowledge, information and belief. I knowingly make this verification according to 28 U.S.C. § 1746 relating to unsworn statements.



Kim Smith CT-2162

1 Kelley Dr.

Coal Township Pa. 17866-1021

Date 5-10-02

PROOF OF SERVICE

I certify that on or about ~~March 10~~<sup>10</sup>, 2002 I kim Smith turn over to D block officers a envelope containing a T.R.O. and brief in support of to forward to institutional mail room to forward to the United State Postal Service to mail to the below listed parties by first class mail the envelopes to the below listed parties.

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Kim Smith